OCT 19 1973

MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1973

No. [redacted]

73-5626

JOHN ROTHWELL,

Petitioner

vs.

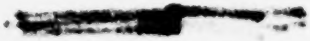
UNITED STATES OF AMERICA,

Respondent

PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS

Robert Farr
547 Burnside Avenue
East Hartford, Connecticut 06108
Counsel for Petitioner

Randolph C. Roeder
Assistant United States Attorney
450 Main Street
Hartford, Connecticut 06103
Counsel for Respondent



INDEX

	Page
Opinion Below	1
Jurisdiction	1
Questions Presented	2
Constitutional Provisions Involved	2
Statement of the Case	2-3
Reasons for Granting the Writ Argument	4-8

1. The trial court denied the Petitioner his right to a fair trial by allowing the co-defendant who testified as a government witness to take the Fifth Amendment on cross-examination to questions about other counts of the Indictment.

2. The trial court denied the Petitioner his right to a fair trial by denying defense counsel's motion to orally examine prospective jurors and his request that members of the jury panel be independently questioned and by rewording questions.

Conclusion	9

Appendix

A. Requested Voir Dire Questions	1A-2A
B. Indictment	3A-5A

TABLE OF CITATIONS

	Page
Aldrige v. U. S., 283 U. S. 308, 51 SCt 470 (314)	6-7
Dennis v. U. S., 339 U. S. 163, 94 LEd 734, 70 SCt 519 (1950)	7
Hamer v. U. S., 259 F2d 270 (1958)	6
Morford v. U. S., 339 U. S. 258 (1950)	6
Nardet v. U. S., 373 U. S. 179 (1963) 10 LEd 2d 278, 83 SCt 1151	5
U. S. v. Lewin, 467 F2d 1132 (1972)	7-8
U. S. v. Malony, 262 F2d 535 (1959)	4-5

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1973

No. _____

JOHN ROTHWELL,

Petitioner

vs.

UNITED STATES OF AMERICA,

Respondent

PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS

The Petitioner, John Rothwell, respectfully prays that a Writ of Certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Second Circuit entered in this proceeding on September 19, 1973.

OPINION BELOW

On November 28, 1972, Petitioner, John Rothwell, was indicted by a Grand Jury charging him with violation of Title 21, United States Code, § 841(a)1 and Title 21, United States Code, § 846. On December 12, 1972, he entered a plea of not guilty to these counts. Trial to a jury of twelve began on February 8, 1973, and concluded on February 9, 1973, with a finding of guilty. On April 2, 1973, John Rothwell was sentenced to four years imprisonment. From this judgment he appealed to the United States Court of Appeals for the Second Circuit. On September 19, 1973, the United States Court of Appeals dismissed the appeal.

JURISDICTION

This Court's jurisdiction is invoked under 28 United States Code, § 1254(1).

QUESTIONS PRESENTED

Whether the trial court denied the Petitioner his right to a fair trial allowing a co-defendant who testified as a government witness to take the Fifth Amendment on cross-examination to questions about other counts of the Indictment.

Whether the trial court denied the Petitioner his right to a fair trial by denying defense counsel's motions to orally examine prospective jurors and his request that members of the jury panel be independently questioned and by rewording questions.

CONSTITUTIONAL PROVISIONS INVOLVED

The constitutional provisions involved are the Fifth and Fourteenth Amendments to the Constitution.

STATEMENT OF THE CASE

Agent John Albano of the Bureau of Narcotics and Dangerous Drugs testified that on August 9, 1972, he purchased 1.35 grams of cocaine from co-defendant James Fox in Hartford, Connecticut. On August 10, 1972, Agent Albano purchased an additional 36.1 grams of cocaine from Fox in Hartford and was informed by Fox that his source was named "Charlie". On August 18, 1972, he purchased 33.75 grams of cocaine from Fox in East Hartford. On September 1, 1972, Agent Albano purchased 35.44 grams of cocaine from Fox and co-defendant, Raymond Holmes, and was informed by Fox that he was leaving the area and Holmes would be handling future transactions and that Holmes was also working for "Charlie". On September 12, 1972, Agent Albano purchased 34.55 grams of cocaine from Holmes in Marlborough, Connecticut. On October 5, 1972, Agent Albano met Charles "Charlie" Catalano who informed him that he was the financial backer of the sales and had supplied the drugs to Holmes and Fox. Agent Albano also testified that he had seen Catalano at the scene of the August 18th and September 12th sales.

On October 17, 1972, Agent Albano met with defendants Catalano and Holmes and agreed to purchase $9,000 worth of cocaine. At approximately 6:00 p.m. Catalano informed Agent Albano that he had to call his connection and entered a building on the Eastern Connecticut State College campus. He returned a few minutes later and informed Agent Albano that the deal was set. Agent Albano met Holmes later that evening at a pre-arranged meeting place and drove to a large open field on the campus of Eastern Connecticut State College. Catalano arrived on foot and Agent Albano did not see his automobile. Catalano took a bag containing 232.50 grams of cocaine from his person to sell to Agent Albano. Catalano and Holmes were arrested and Agent Keefe arrived with Petitioner Rothwell in custody.

Agent Keefe testified that on October 17, 1972, he along with other agents followed Catalano from the campus of Eastern Connecticut State College which he left at approximately 8:10 p. m. to the residence of John Rothwell in Vernon, Connecticut. While following Catalano, they temporarily lost contact with him. When Catalano arrived at the Rothwell residence, he waited in his automobile until a Volkswagen van arrived with two males in it. The two males entered the residence with Catalano and a short while later left the residence. Catalano and one male drove off in Catalano's car and was followed back to the campus of Eastern Connecticut State College. When the arrest signal was given, Agent Keefe went to Catalano's automobile and arrested John Rothwell.

Catalano testified that he met with Agent Albano to arrange the sale of the drugs on October 17, 1972, and at 6:00 p. m. he called Rothwell at Rothwell's home to arrange to obtain the cocaine. He later went to Rothwell's home where he waited for Rothwell. When Rothwell arrived with another male known as "Henry", they went into Rothwell's home and he obtained the cocaine which was on a desk in Rothwell's room. He did not observe anyone else home at the time. He returned to the campus with Rothwell and Rothwell stayed in the car while Catalano went to transact the deal. Catalano refused to answer any questions concerning any of the other drug transactions.

Henry Sterford testified as a witness for the Petitioner, John Rothwell. Sterford testified that on October 17, 1972, he was out observing ducks with John Rothwell. Rothwell, who has no driver's license, informed Sterford that Catalano was going to pick him up at his home to give him a ride to a local discotheque. Sterford drove Rothwell back to his home where they found Catalano waiting. They entered Rothwell's home and spoke to John Rothwell's father who was watching television at the time. Rothwell changed his clothes and they all left. He saw no drugs and heard no discussion about drugs.

Rothwell testified that he was out with Henry Sterford observing ducks and Catalano had told him earlier in the week that he would give him a ride to a discotheque. They arrived home to find Catalano waiting. He changed his clothes and left with Catalano. Rothwell saw no drugs and had no discussion about the sale of drugs. Catalano stopped at Eastern Connecticut State College where Catalano was a student and told Rothwell that he would be back in a minute. Rothwell waited by the car and was arrested.

Rothwell's father testified that he was home on October 17, 1972, and saw Sterford, Rothwell and Catalano enter the home and that Rothwell had told him that Catalano was giving him a ride to a discotheque. He saw no drugs and heard no discussion about drugs.

REASONS FOR GRANTING THE WRIT ARGUMENT

1. The trial court denied the Petitioner his right to a fair trial by allowing the co-defendant who testified as a government witness to take the Fifth Amendment on cross-examination to questions about other counts of the Indictment.

Agent Albano testified that he purchased cocaine from co-defendant Fox on August 9, 10 and 18, 1972, and from Fox and co-defendant Holmes on September 1, 1972, and from Holmes on September 12, 1972, and from Holmes and co-defendant Catalano on October 17, 1972. He further testified that Catalano admitted supplying Fox and Holmes with the cocaine they sold and that Catalano admitted he was the financial backer for the whole operation. Catalano was also seen by Agent Albano at the scene of the August 18th and September 12th sales.

Catalano testified to the sale of cocaine on October 17, 1972. He was also asked by the government, "Did you sell cocaine on other nights as well as October 17?" to which he answered, "Yes, Sir." (Tr. Vol. I - Pg. 14) Catalano then claimed the privilege of the Fifth Amendment as to all transactions other than the one on October 17, 1972. (Tr. Vol. I - Pg. 33) Catalano had previously testified to a Grand Jury that he had other sources besides Rothwell but refused to do so on cross-examination. (Tr. Vol. I - Pg. 36) Catalano indicated that he was testifying under subpeona but also admitted that he had agreed to testify prior to being subpeonaed. (Tr. Vol. I - Pg. 40) Catalano had pleaded not guilty to counts 3, 4, 8, 9 and 10 but prior to trial was allowed to change his plea to guilty on count 10 with no action on the other counts. (Tr. Vol. I - Pg. 34)

Catalano's refusal to answer questions about any transactions other than that of October 17th effectively prevented cross-examination of Catalano. The government had already presented evidence that there were sales of cocaine on five other occasions besides October 17th. There was testimony by Agent Albano that Catalano was involved in all five sales but there was no evidence presented directly connecting the Petitioner, Rothwell, to any of these sales. The jury might have inferred, however, that the Petitioner, Rothwell, was the source of cocaine for these sales as well since Catalano had testified that Rothwell was the source for the October 17th sale and refused to testify as to whether he had any other sources. The Petitioner could in no way rebut any inference that the jury might raise from Catalano's refusal to testify since Catalano hid behind the shield of the Fifth Amendment.

In U. S. v. Malony, 262 F2d 535 (1959) where the prosecutor called to the stand a witness who took the Fifth Amendment, the court overruled a conviction and said:

> (537) "If the prosecutor knows when it puts the question that he will claim the privilege, it is charged

> with notice of the probable effect of this refusal upon the jury's mind . . . the presumed answer has not the sanction of an oath but what is even more important - that the accused cannot examine."

In Namet v. U. S., 373 U. S. 179 (1963) 10 LEd 2d 278, 83 SCt 1151, where a co-defendant took the Fifth Amendment to the prosecutor's questions with the consent and advice of defense counsel, the court in upholding the conviction said:

> "Lower courts have looked to the surrounding circumstances in each case . . . (187) the present case is not one like Malony in which a witnesses' refusal to testify is the only source, or even the chief source, of the inference that the witness engaged in criminal activity with the defendant. In this case, the few claims of testimonial privilege were at most cumulative support for an inference already well established by nonprivileged portions of the witnesses' testimony."

In the Rothwell trial, the government produced evidence of the first five sales and of the conspiracy between Catalano, Fox and Holmes. No evidence was introduced linking Rothwell to any of those first five sales. There was circumstantial evidence linking Rothwell to the October 17th sale in that he was picked up by Catalano when Catalano stated he was going to pick up the cocaine and Rothwell rode back with Catalano and was waiting in the car for him. No package was ever seen passed to or carried by Rothwell. His name was never mentioned prior to his arrest and he was never described by anyone nor did Catalano indicate that he was going to pick up the person who was supplying him with the drugs.

Catalano was the only witness who could directly involve Rothwell in the October 17th sale. The government clearly needed his testimony to convict Rothwell. Before he testified, they allowed Catalano to plead guilty to the one count of the Indictment which would permit him to testify as to the October 17th sale and continued the other charges without pleas. This raised the inference to the jury that Rothwell was involved in the other sales and it effectively limited any cross-examination of Catalano. Testimony was given as to what Catalano said on the prior sales and what his actions were but he would not answer any questions as to his statements or actions.

Defense counsel moved that Catalano's testimony be stricken or for a mistrial (Tr. Vol. II - Pg. 87) and these motions were denied. The government could have granted immunity to Catalano as to the other charges which would have allowed effective cross-examination but chose instead to present evidence of the other sales while limiting the cross-examination of Catalano. This was clearly a denial of the Petitioner,

Rothwell's, right to due process and a fair trial guaranteed to him under the Fifth and Fourteenth Amendments to the Constitution.

2. The trial court denied the Petitioner his right to a fair trial by denying defense counsel's motion to orally examine prospective jurors and his request that members of the jury panel be independently questioned and by rewording questions.

When selecting the jury for the Rothwell trial, the trial judge had defendants and counsels for several cases present in the court at one time. (Tr. Vol. II - Pg. 2) Voir dire questions for U. S. v. Callis, II-312, an unrelated case, were asked and the jury was selected for that case prior to the voir dire for the Rothwell jury. The questions and responses for the jurors in the Callis case were made part of the Rothwell voir dire. (Tr. Vol. II - Pg. 2)

Prior to the selection of the jurors, defense counsel argued a "Motion to Permit Defense Counsel of Orally Examine Prospective Jurors" and this motion was denied. (Tr. Vol. II - Pg. 21)

The trial judge asked all voir dire questions of the panel for the Callis case and worded the questions so that only an affirmative answer would disqualify a juror. Defense counsel for Rothwell moved to have the questions asked to each juror individually. (Tr. Vol. II - Pg. 21) This request was denied. Defense counsel requested that questions be asked in a manner which would require an affirmative answer in order for the juror to be qualified. This request was denied. (Tr. Vol. II - Pg. 22)

The trial judge reworded all questions of the defense counsel in the Rothwell case so as not to require responses and when the question was asked, the court would comment, "Hearing no response to the question, the court concludes that it is inapplicable." (Tr. Vol. I - Pg. 8)

The only question to which there was any response at all in the Rothwell voir dire was whether anyone knew defense counsel to which one member of the panel responded (Tr. Vol. I - Pg. 5) and the only questions in the Callis voir dire to which there were any responses were the questions as to whether any of the panel had any friends who were police officers, or members of the prosecutor's office, of if they had been the victim of any crimes.

No effort was made by the trial judge to determine if the members of the panel heard all of the questions, understood all of the questions or for that matter, to determine if any members of the panel had fallen asleep.

In Aldrige v. U. S., 283 U. S. 308, 51 SCt 470 (314), the court in reversing a conviction where a trial judge refused to ask members of the jury panel voir dire questions on racial bias said:

> "The argument is advanced on behalf of the government that it will be detrimental to the administration of law and the courts of the United States to allow questions to jurors as to racial or religious prejudice. We think that it would be far more injurious to permit it to be thought that persons entertaining a disqualifying privilege were allowed to serve as jurors and that inquiries designed to eliminate the facts of disqualification were barred. No sure way would be devised to bring the process of justice into disrepute."

In Morford v. U. S., 339 U. S. 258 (1950), the court in reversing a prior conviction where the trial court refused certain voir dire questions quoted from Dennis v. U. S., 339 U. S. 163, 94 LEd 734, 70 SCt 519 (1950) and said, "The preservation of the opportunity to prove actual bias is a guaranty of the defendant's right to an impartial jury."

While Rule 24(a) of the Federal Rules of Criminal Procedure allows the court the discretion to conduct its own voir dire, this rule has been upheld, "provided that the selection of the jury when viewed as a whole is fair and impartial." Hamer v. U. S., 259 F2d 270 (1958).

The court's procedure for conducting the voir dire in the Rothwell case was in reality a sham and a denial of the Petitioner's Constitutional rights under the Fifth and Fourteenth Amendments to the Constitution. It was, in fact, designed to hide the possibility of bias and not disclose it. The goals of a voir dire were best described in U. S. v. Lewin, 467 F2d 1132 (1972) where the court in reversing a conviction because of the trial court's failure to ask certain questions said:

> (1134) "Because of the uncertainty of human reactions to often unknown or unanticipated motivating factors, the entire voir dire procedure is fraught with precariousness as to whether the desired resultant jury will be realized. Character qualities desirable from interrogation are often elusive and the answers to questions may frequently be illusory as a firm basis for any type of challenge.
>
> Prejudice and bias are deep running streams more often than not concealed by the calm surface stemming from an awareness of a secret distaste for their existence. Extended and trial delaying interrogations may not pierce the veil, yet a few specific associational questions may indicate the dormant seeds of prejudice, preconceived and unaltered concepts or other nonfairness disqualifications. The result may not reach the stage of being a basis for cause challenge but could well, because of the abundance of counsel's caution, bring about a preemptory challenge which an omniscient eye would have known should have been excluded

> . . . We are not ready to say that the person who has his liberty or, indeed, his property, at stake must be compelled to accept a jury on a strictly cursory, generality interrogational basis (1138) . . . we do not consider the court's obligation to let counsel, on request, get at underlying bases reflecting on bias, prejudice or other suspected factors to be discharged by general questions such as, 'Is there any reason you cannot fairly and impartially try this case?' This obligation particularly would not seem to be discharged by general direct confrontational questions on human characteristics which most people are reluctant to admit they possess."

The trial court in Rothwell combined requested voir dire questions and worded them in such a way as to not require an affirmative answer. For example, the following voir dire questions were requested:

"6. Do you believe that young people are more involved in drugs than older people?

7. Do you believe that young people with long hair and beards are more likely to be involved in drugs than those who are clean shaven and have short hair?

8. If so, do you believe the defendant because he is young and has long hair and a beard is more likely to have been involved with drugs than someone your own age who dresses and grooms himself similar to yourself?"

These questions were combined by the court and asked as follows:

"The defendant has long hair and a beard. The question is: Do you believe the defendant, because he is young, has long hair and a beard, is more likely to have been involved with drugs than somebody who dresses and grooms himself differently or more conservatively as the case may be?

In other words, because of his appearance, would you feel that he is more likely than not involved with drugs, because of that fact? If so, that fact should be disclosed to counsel and to the court.

Hearing no response to the question, the court concludes that it is inapplicable." (Tr. Vol. I - Pg. 8)

In this way not only did the court eliminate associational questions but also eliminated any need for the members of the jury panel to respond as well as in the process eliminating the Petitioner's right to a fair trial.

CONCLUSION

For the foregoing reasons, the Petitioner submits that the court erred in not allowing a proper voir dire of the jury, allowing Catalano to take the Fifth Amendment, allowing Catalano's testimony to stand after he took the Fifth Amendment and in not declaring a mistrial and, therefore, the judgment should be reversed.

Respectfully submitted,

Robert Farr
547 Burnside Avenue
East Hartford, Conn. 06108

Attorney for Petitioner

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1973

No. _____

JOHN ROTHWELL,

Petitioner

vs.

UNITED STATES OF AMERICA,

Respondent

PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS

APPENDIX

PROPOSED QUESTIONS FOR VOIR DIRE EXAMINATION

1. Have you sat before as a juror in a criminal proceeding in this Court or sat as a member of a Grand Jury?

2. If you have done so, has this experience colored your opinion as to these proceedings in any way or given you a bias or leaning which you did not have earlier?

3. Even though the defendant is presumed to be innocent, don't you believe that he must have done something wrong in order to have been arrested?

4. Do you believe that defendants in most criminal cases in Federal Court are convicted?

5. If you believe that most defendants in Federal cases are convicted, do you think it is more likely than not that the defendant will be convicted?

6. Do you believe that young people are more involved in drugs than older people?

7. Do you believe that young people with long hair and beards are more likely to be involved in drugs than those who are clean shaven and have short hair?

8. If so, do you believe the defendant because he is young and has long hair and a beard is more likely to have been involved with drugs than someone your own age who dresses and grooms himself similar to yourself?

9. If you believe the defendant is more likely to have been involved in drugs than a member of your peer group, don't you then believe that the defendant is probably involved in drugs and was probably guilty of possession and sale of drugs since these are the charges against him?

10. Do you believe as you carefully examine your conscious and unconscious mind that the defendant is innocent at this moment and that the Government has a complete and total burden to prove him guilty beyond a reasonable doubt?

11. Do you further accept the fact that if the Government does not meet its burden, that you must acquit the defendant of any crime for which he now stands charged?

12. Can you bring in a verdict of guilty?

13. If you are convinced that this defendant is innocent, that the Government has not met its burden of proof beyond a reasonable doubt and other jurors are of contrary opinion, can you hold your convictions so long as it remains your conviction? . . .

16. If you were the defendant in this trial and someone was about to be considered a member of your jury and that someone had the same state of mind that you now have, would you pick that person to sit on your jury?

DEFENDANT, JOHN ROTHWELL

By_____
ROBERT FARR
His Attorney

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA	:	
	:	
v.	:	
	:	
RAYMOND M. HOLMES, III a/k/a "Chip", CHARLES CATALANO, JOHN ROTHWELL, and JAMES M. FOX	:	CRIMINAL NO. H-383

INDICTMENT

The Grand Jury charges:

COUNT ONE

On or about August 9, 1972, at Hartford, Connecticut, JAMES M. FOX knowingly and intentionally distributed and dispensed a controlled substance, that is, 1.35 grams of cocaine, in violation of Title 21, United States Code, Section 841(a)(1).

COUNT TWO

On or about August 10, 1972, at Hartford, Connecticut, JAMES M. FOX knowingly and intentionally distributed and dispensed a controlled substance, that is, 36.10 grams of cocaine, in violation of Title 21, United States Code, Section 841(a)(1).

COUNT THREE

On or about August 18, 1972, at East Hartford, Connecticut, JAMES M. FOX and CHARLES CATALANO did knowingly and intentionally possess, with intent to distribute and dispense, a controlled substance, that is, 33.75 grams of cocaine, in violation of Title 21, United States Code, Section 841(a)(1).

COUNT FOUR

On or about August 18, 1972, at East Hartford, Connecticut, JAMES M. FOX and CHARLES CATALANO knowingly and intentionally distributed and dispensed a controlled substance, that is, 33.75 grams of cocaine, in violation of Title 21, United States Code, Section 841(a)(1).

COUNT FIVE

On or about September 1, 1972, at Hartford, Connecticut, JAMES M. FOX and RAYMOND M. HOLMES, III a/k/a "Chip" did knowingly and intentionally possess, with intent to distribute and dispense, a controlled substance, that is, 35.44 grams of cocaine, in violation of Title 21, United States Code, Section 841(a)(1).

COUNT SIX

On or about September 1, 1972, at Hartford, Connecticut, JAMES M. FOX and RAYMOND M. HOLMES, III a/k/a "Chip" knowingly and intentionally distributed and dispensed a controlled substance, that is, 35.44 grams of cocaine, in violation of Title 21, United States Code, Section 841(a)(1).

COUNT SEVEN

On or about September 12, 1972, at Willimantic, Connecticut, RAYMOND M. HOLMES, III a/k/a "Chip" knowingly and intentionally distributed and dispensed a controlled substance, that is, 650 milligrams of cocaine, in violation of Title 21, United States Code, Section 841(a)(1).

COUNT EIGHT

On or about September 12, 1972, at Marlborough, Connecticut, RAYMOND M. HOLMES, III a/k/a "Chip" and CHARLES CATALANO knowingly and intentionally distributed and dispensed a controlled substance, that is, 34.55 grams of cocaine, in violation of Title 21, United States Code, Section 841 (a)(1).

COUNT NINE

On or about October 17, 1972, at Willimantic, Connecticut, CHARLES CATALANO, RAYMOND M. HOLMES, III a/k/a "Chip", and JOHN ROTHWELL did knowingly and intentionally possess, with intent to distribute and dispense, a controlled substance, that is, 232.50 grams of cocaine, in violation of Title 21, United States Code, Section 841(a)(1).

COUNT TEN

On or about October 17, 1972, at Willimantic, Connecticut, CHARLES CATALANO, RAYMOND M. HOLMES, III a/k/a "Chip", and JOHN ROTHWELL knowingly and intentionally distributed and

dispensed a controlled substance, that is, 232.50 grams of cocaine, in violation of Title 21, United States Code, Section 841(a)(1).

COUNT ELEVEN

From on or about August 1, 1972, until on or about October 17, 1972, RAYMOND M. HOLMES, III a/k/a "Chip", CHARLES CATALANO, JAMES M. FOX and JOHN ROTHWELL wilfully and knowingly conspired together and with each other to violate Title 21, United States Code, Section 841(a)(1) by knowingly and intentionally possessing, with intent to distribute and dispense, and by distributing and dispensing controlled substances, in violation of Title 21, United States Code, Section 846.

A TRUE BILL

_____
Foreman

STEWART H. JONES
United States Attorney

/S/ Randolph C. Roeder
RANDOLPH C. ROEDER
Assistant United States Attorney